

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT
OF ALABAMA, EASTERN DIVISION**

**WENDELL DEAN VAN METER,
NEVA JANE VAN METER,**

Plaintiffs,

v.

**THE CITY OF LANETT,
ALABAMA; OSCAR CRAWLEY,
individually and as Mayor of the City
of Lanett; KYLE MCCOY,
individually and as Lanett City
Councilman; JOHN DUSKIN,
individually and as Lanett City
Councilman; MIKE YARBROUGH,
individually and as Lanett City
Councilman; JOEL G. HOLLEY,
individually and as Lanett City
Manager**

Defendants.

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CLARA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Case No.: 3:06cv583-

NOTICE OF REMOVAL

COMES NOW the Defendants, City of Lanett, Alabama, Oscar Crawley, Kyle McCoy, John Duskin, Mike Yarbrough, and Joel G. Holley, by and through their attorney of record, and gives notice of removal of the above styled action from the Circuit Court of Chambers County, Alabama to the United States District Court for the Middle District of Alabama, Eastern Division. As grounds for its removal, the Defendants would state as follows:

1. From information and belief, the Plaintiffs, Wendell Van Meter and Neva Jane Van Meter, are citizens of the State of Alabama and reside in Chambers County,

Alabama.

2. The Defendants are a municipality within the State of Alabama and are Mayor, Council Members, and City Manager of that municipality.
3. On or about June 1, 2006, the above styled action was commenced against the Defendants in the Circuit Court of Chambers County, Alabama.
4. The City of Lanett and other Defendants were served with the Complaint on or about June 5, 2006. A copy of the Complaint is attached hereto as Exhibit "A".
5. Other than the Plaintiffs filing a Complaint, no other proceedings have taken place in the State Court in this matter.
6. This action is subject to removal on the basis of federal question jurisdiction. The Complaint specifically invokes and attempts to assert claims under Count II alleging violations of 42 U.S.C.A. Section 1983. Therefore, the Complaint includes claims governed and necessarily arising under the Acts of Congress under 42 U.S.C.A. 1983, et. set.
7. The amount in controversy in this case has been requested in the amount of \$500,000.00 plus punitive damages. Therefore, the amount in controversy is more than the jurisdictional amount.
8. It is the Defendants' contention that this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.
9. The remaining claims asserted in the Complaint are within this Court's subject matter jurisdiction pursuant to 28 U.S.C. § 1367.

10. This action is removable to this Court pursuant to 28 U.S.C. § 1441 (b). The state law claims are not separate and independent from the federal claims, and thus the remand of the state law claims is not permissible under 28 U.S.C. § 1441 (c). See, *In re City of Mobile*, 75 F.3d 605, 608 (11th Cir. 1996). Furthermore, the state law claims, if any, do not fall within any of the limited exceptions enumerated in 28 U.S.C. § 1367 (c) as instances in which the district court could exercise its discretion to decline supplemental jurisdiction.

11. This petition is filed with this Honorable Court within 30 days of service on Defendants of Plaintiffs' Complaint.

12. Notice of the Defendant's removal of the above-styled action has been given to the Clerk of the Circuit Court of Chambers County, Alabama, and to the Plaintiffs as required by 28 U.S.C. § 1446 (d). See Exhibit "B" attached hereto.

Wherefore, the Defendants have removed this action from the Circuit Court of Chambers County, Alabama, to the United States District Court for the Middle District of Alabama, Eastern Division.

Respectfully submitted,



T. RANDALL LYONS (LYO006)
Attorney for Above-named Defendants

OF COUNSEL:

Webster, Henry, Lyons & White, P.C.
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334-264-9472
334-264-9599

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following on this the 29th day of June, 2006 via United States Mail, postage prepaid:

James C. Ingram, Jr.
P.O. Box 258
Lanett, AL 36863

William G. Harris
P.O. Box 698
Foley, AL 36536



OF COUNSEL